

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Robert MARTUZA *et al*  
Title: REPLICATION-COMPETENT HERPES SIMPLEX VIRUS  
MEDIATES DESTRUCTION OF NEOPLASTIC CELLS  
Appl. No.: 10/748,233  
Filing Date: 12/31/2003  
Examiner: Wu Cheng Winston SHEN  
Art Unit: 1632  
Confirmation Number: 7116

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Your Petitioner, Georgetown University, having its principal place of business at Office of Technology Transfer, 177 Building D, Washington, D.C. 20007, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/748,233, filed on December 31, 2003, which is a divisional of U.S. Patent Application No. 09/625,509 (now Patent No. 6,699,468), filed on July 25, 2000, which is a divisional of U.S. Patent Application No. 09/004,511 (now Patent No. 6,139,834), filed on January 8, 1998, which is a continuation of U.S. Patent Application No. 08/478,800 (now abandoned), filed on June 7, 1995, which is a continuation of U.S. Patent Application No. 08/264,581 (now Patent No. 5,585,096), filed on June 23, 1994, by virtue of an Assignment filed and recorded on May 1, 1996, on Reel/Frame 7921/0475, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A. Further, your Petitioner represents that it is the owner

of U.S. Patent Application No. 10/788,410, filed on March 1, 2004, which is a divisional of U.S. Patent Application Serial No. 09/625,509 (now Patent No. 6,699,468), filed on July 25, 2000, which is a divisional of U.S. Patent Application No. 09/004,511 (now Patent No. 6,139,834), filed on January 8, 1998, which is a continuation of U.S. Patent Application No. 08/478,800 (now abandoned), filed on June 7, 1995, which is a continuation of U.S. Patent Application No. 08/264,581 (now Patent No. 5,585,096), filed on June 23, 1994, by virtue of an Assignment filed and recorded on May 1, 1996, on Reel/Frame 7921/0475, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A.

Your Petitioner, Georgetown University, hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application No. 10/748,233 which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of any patent granted on U.S. Patent Application No. 10/788,410, and hereby agrees that any patent so granted on U.S. Patent Application No. 10/748,233 shall be enforceable only for and during such period that the legal title to any patent granted on U.S. Patent Application No. 10/788,410 shall be the same as the legal title to any patent granted on U.S. Patent Application No. 10/748,233, this agreement to run with any patent granted on U.S. Patent Application No. 10/748,233 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application No. 10/748,233, prior to the full statutory term of any patent granted on U.S. Patent Application No. 10/788,410 as defined in 35 U.S.C. §§154-156 and 173, in the event that any patent granted on U.S. Patent Application No. 10/788,410 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of any patent granted on U.S. Patent Application No. 10/788,410 as defined in 35 USC §§154-156 and 173, except for the separation of legal title

stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application No. 10/748,233 that would extend beyond the present termination of any patent granted on U.S. Patent Application No. 10/788,410, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application No. 10/748,233 to the extent provided by law.

The undersigned, being the Attorney of Record for U.S. Patent Application No. 10/748,233, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignments attached as APPENDIX A, and to the best of his knowledge and belief, legal title to U.S. Patent Application No. 10/748,233 and any patent granted on U.S. Patent Application No. 10/788,410 rests with Petitioners, Georgetown University. The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date 3 July 2007

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5404  
Facsimile: (202) 672-5399

By S. A. Bent

Stephen A. Bent  
Attorney for Applicant  
Registration No. 29,768